

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SUSANNA MIRKIN, individually and on Behalf of
All Others Similarly Situated,

Plaintiff,

-against-

XOOM ENERGY, LLC, and XOOM ENERGY
NEW YORK, LLC,

Defendants.

No: 18 Civ. 2949 (ARR)(RER)

**DECLARATION OF
BARRY J. PEEK, ESQ.**

I, BARRY J. PEEK, Esq., declare the following under penalty of perjury and pursuant to 28 U.S.C. § 1746:

1. I am the Chief Executive Officer of Arden Claims Service LLC (“Arden”), the notice administrator in the above-entitled action. My business address is 322 Main Street, Port Washington, New York 11050. My telephone number is (516) 944-2700.

2. Arden is a class action notice administration company headquartered in Port Washington, New York. It was founded by individuals who have decades of experience in arbitration, mediation, and the practice of law, including class actions, and includes staff with years of experience in third-party notice administration, mail-house operations and call center support management.

3. Arden was selected by Class Counsel as the Notice Administrator on October 17, 2023, to issue notice to Class Members of the class certified in the above referenced action and to advise them of their legal rights in relation thereto.

NOTIFICATIONS TO THE CLASS

4. On October 17, 2023, Arden received the Court-approved Notice (hereinafter, the “Short-Form Notice”) from Class Counsel. *See* ECF No. 156-3. The Short-Form Notice advised Class Members of inclusion in the Class, as well as their right to opt-out and the implications of such action. The Short-Form Notice advised Class Members of applicable deadlines including the deadline for opting out, and how Class Members could obtain additional information.

5. On November 7, 2023, Defendants’ counsel provided Arden with a list (hereinafter, the “Class List”) containing the name, and if available, last known mailing and email addresses of each of the 124,530 Class Members. That same day, Defendants certified that the Class List represented the “most current and up-to-date information that XOOM has for the Class Members.” ECF No. 164.

6. The mailing addresses contained in the Class List were processed and updated utilizing the National Change of Address Database (“NCOA”) maintained by the United States Postal Service (“USPS”). The NCOA contains changes of address information filed with the USPS. In the event that any individual had filed a USPS change of address request, the address listed with the NCOA was utilized in connection with the mailing of the Short-Form Notice.

7. The Class List of 124,530 Class Members included email addresses for 119,800 Class Members. Of those 119,800 email addresses, there were 74,784 unique valid email addresses after deduping the 119,800 email addresses and removing invalid email addresses. On December 14, 2023, the English Short-Form Notice was emailed to 74,784 Class Members contained in the Class List for whom email addresses were available. Additionally, the Spanish Short-Form Notice was emailed to 3,545 of those 74,784 Class Members. There were 4,730 Class Members with no valid email address who were mailed the English Short-Form Notice via First

Class Mail. Additionally, the Spanish Short-Form Notice was mailed via First Class Mail to sixty-six (66) Class Members who also received the English Short-Form Notice.

8. A web portal was established where Class Members can find the Long-Form Notice, FAQ, and other important documents related to this matter.

9. 21,505 Short-Form Notices that were sent via email to 20,472 Class Members (20,472 in English, 1,033 in Spanish) bounced back and were subsequently resent via first class mail. Arden received 3,588 Short-Form Notices back as undeliverable. 115 of those Short-Form Notices were returned by the USPS as undeliverable but with a forwarding address, and these were re-mailed to the forwarding addresses received. 3,473 Short-Form Notices were returned without a forwarding address. Arden performed an advanced address search on these addresses by using LexisNexis, a reputable research tool. Arden used the Class Member's name and address associated with the account to attempt to obtain a current address. Through the 3,454 advanced address searches performed, Arden was able to locate 2,227 updated addresses and Arden promptly re-mailed Short-Form Notices to those updated addresses. Of those, 254 were returned undelivered a second time. For 38 of those Class Members, Arden was able to locate another updated address and promptly re-mailed Short-Form Notices to those updated addresses. Of those, 2 were returned undelivered a third time. Accordingly, in total Arden was able to re-mail 22,814 Short-Form Notices.

10. Ultimately, the number of unique Class Members on the Class List who received Short-Form Notices was 78,050 out of the 79,514 unique Class Members (53,279 Class Members notified via email, plus 24,771 Class Members notified via mail). 1,464 unique Class Members were not ultimately located for a total undeliverable rate of approximately 1.8%.

EXCLUSIONS AND OBJECTIONS

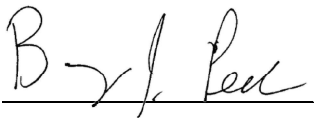
11. As of this date, Arden has received two (2) requests for exclusion from the Class which are attached hereto as Exhibit 1.

ADMINISTRATION COSTS

12. Arden's fees and expenses for services rendered in connection with the administration of this Class Action notice including fees incurred and anticipated future costs for completion of the administration are \$80,000.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 23 in Port Washington, New York.

By: 
Barry J. Peek, Esq.